IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 14TH MARCH 2007 / 23RD PHALGUNA 1928

OP.No. 2805 of 2003(H)

PETITIONER:

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1. THE KERALA FINANCIAL CORPORATION, THIRUVANANTHAPURAM, REPRESENTED BY ITS DEPUTY MANAGER (LEGAL), MR. JEROME.

2. M/S. MICROTROL STERILISATION SERVICES PVT. LTD., REGISTERED OFFICE, "KRIPALANI ESTATE", SAKI VIHAR ROAD, MUMBAI, PIN 400072, REPRESENTED BY MR. PRADEEP KUMAR MENON, POWER OF ATTORNEY HOLDER.

BY ADV. SRI.K.K.CHANDRAN PILLAI
SRI.BENBY GERVACIS

RESPONDENTS:

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1. THE COMMISSIONER, LAND REVENUE, THIRUVANANTHAPURAM

2. THE INSPECTOR GENERAL OF REGISTRATION, REGISTRATION DEPARTMENT, VANCHIYOOR, THIRUVANANTHAPURAM

3. THE DISTRICT REGISTRAR, GENERAL), ERNAKULAM

4. THE SUB REGISTRAR, SUB REGISTRY OFFICE, ALANGAD, ERNAKULAM DISTRICT

5. STATE OF KERALA, REPRESENTED BY ITS CHIEF SECRETARY, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SMT.R.BINDU

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 14/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NOS.5110 & 5111/2003 IN O.P. NO.2805/2003

DISMISSED:

14.3.2007 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: COPY OF HYPOTHECATION AGREEMENT EXECUTED BY THE BORROWER COMPANY DT.28.2.1990.

P2: COPY OF SALE NOTE EXECUTED BY 1ST PETITIOENR DT.28.7.2000.

P3: COPY OF NOTICE ISSUED BY R3 DT.20.9.2000.

P4: COPY OF LETTER SENT BY R3 TO R1 DT.13.11.2000.

P5: COPY OF PETITION FILED BY 1ST PETITIONER BEFORE R1.

P6: COPY OF PETITION FILED BY 2ND PETITIONER BEFORE R1 DT.17.8.2001.

P7: COPY OF NOTICE DT.4.5.2002 ISSUED TO 1ST PETITIONER.

P8: COPY OF ORDER OF LAND REVENUE COMMISSIONER (R1) DT.7.8.2002.

P9: COPY OF REQUEST FOR PERSONAL HEARING SUBMITTED TO R1 BY 2ND PETITIONER DT.22.5.2002.

P10:COPY OF NOTICE ISSUED BY R4 TO 2ND PETITIONER.

TRUE COPY

P.S. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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O.P. No.2805 of 2003

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Dated this the 14th day of March, 2007.

JUDGMENT

The petitioners are challenging Ext.P10 order by which the Sub Registrar had demanded additional stamp duty for Ext.P2 document registered by first petitioner in favour of second petitioner. According to the petitioner, stamp duty was limited to value of land and building and there is no justification for demanding stamp duty for movables such as plant, machinery etc., which are sold separately. I have heard counsel for the petitioners and the Government Pleader. On going through Ext.P2 I find the document covers sale of the immovable properties with plant and machinery installed therein. Even though the price is separately mentioned, the document covers the entire transaction and the total consideration is Rs.21,60,000/-. It is evident from Ext.P2 that what is sold is an industry with land, building and plant and machinery installed there. Therefore, stamp duty can be demanded for the total value of consideration covered by the document. Admittedly, petitioner has paid stamp duty only for the value of the land separately shown in the document. Since the balance demand is for the balance consideration covered by the sale deed, the

demand is absolutely sustainable. The O.P. is therefore dismissed as devoid of any merit. On deposit of additional stamp duty and registration fees, documents will be released and on failure, amount can be recovered through revenue recovery proceedings.

C.N.RAMACHANDRAN NAIR
Judge

pms